

Enrolled
House Bill 2600

Sponsored by Representative OLSON, Senators KRUSE, ROBLAN, Representatives MCKEOWN, SANCHEZ; Representatives HUFFMAN, LININGER, MARSH, RAYFIELD, WITT, Senators BEYER, BURDICK, DEVLIN (Presession filed.)

CHAPTER

AN ACT

Relating to court appointed special advocates; creating new provisions; amending ORS 131A.360, 419A.004, 419A.255, 419B.112, 458.558 and 458.568; repealing ORS 458.580, 458.581, 458.582 and 458.584; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 458.580, 458.581, 458.582 and 458.584 are repealed.

SECTION 2. As used in ORS 419B.112 and sections 2 to 5 of this 2017 Act:

(1) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon Department of Administrative Services under section 3 of this 2017 Act to recruit, train and supervise volunteers to serve as court appointed special advocates.

(2) "Court appointed special advocate" means a person in a CASA Volunteer Program who is appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

SECTION 3. (1) The Oregon Department of Administrative Services shall:

(a) Contract with all CASA Volunteer Programs in this state to recruit, train and supervise court appointed special advocates. The department may delegate authority to contract under this paragraph to the statewide coordinating entity contracted with under paragraph (b) of this subsection.

(b) Contract with a nongovernmental entity to serve as the statewide coordinating entity for the provision of court appointed special advocate services throughout this state. The nongovernmental entity must be a member of the National CASA Association and have a board or other membership structure that contains directors from the CASA Volunteer Programs in this state. At a minimum, the contract must include authority for the statewide coordinating entity to:

(A) Contract with CASA Volunteer Programs;

(B) Disburse and expend moneys in the Court Appointed Special Advocate Fund established in section 5 of this 2017 Act to CASA Volunteer Programs in this state; and

(C) Execute the standards described in paragraph (c) of this subsection.

(c) Oversee and monitor CASA Volunteer Program standards, with assistance from the statewide coordinating entity contracted with by the department under paragraph (b) of this subsection, to recruit, train and supervise court appointed special advocates.

(d) Disburse and expend moneys in the Court Appointed Special Advocate Fund established under section 5 of this 2017 Act for the purposes set forth in this section and ORS 419B.112. The department may disburse and expend moneys from the fund to the statewide coordinating entity contracted with pursuant to paragraph (b) of this subsection for the purposes set forth in this section and ORS 419B.112.

(e) With the assistance of the statewide coordinating entity contracted with pursuant to paragraph (b) of this subsection, oversee the provision of court appointed special advocate services throughout this state in a uniform, consistent and cost-efficient manner by ensuring that CASA Volunteer Programs:

(A) Adopt policies, procedures, standards and guidelines regarding the provision of court appointed special advocate services as directed by the department; and

(B) Develop and provide training and education for court appointed special advocates and employees and other volunteers in CASA Volunteer Programs as directed by the department.

(f) Identify statewide outcome or performance measures for CASA Volunteer Programs.

(g) Collect, evaluate and summarize data regarding CASA Volunteer Programs and court appointed special advocate services in this state.

(h) Adopt rules for carrying out the department's responsibilities, duties and functions under this section and ORS 419B.112.

(2) The department may:

(a) Delegate to a statewide coordinating entity contracted with under subsection (1)(b) of this section the responsibility to:

(A) Create, supervise and operate CASA Volunteer Programs throughout this state; and

(B) Develop and provide training for court appointed special advocates and employees and volunteers of CASA Volunteer Programs.

(b) Consult with public agencies or private nonprofit organizations for the purpose of developing:

(A) An allocation formula for the disbursement of moneys to CASA Volunteer Programs in this state; and

(B) Policies, procedures, standards and guidelines regarding the provision of court appointed special advocate services in this state.

(c) Apply for and receive funds from state, federal and private sources for CASA Volunteer Programs and the provision of court appointed special advocate services in this state.

(3) The statewide coordinating entity with which the department has contracted under subsection (1)(b) of this section, or to which the department has delegated responsibilities under subsection (2)(a) of this section, shall provide biannual reports to the department regarding:

(a) The fulfillment of responsibilities that have been contracted for or delegated; and

(b) When applicable to responsibilities contracted for or delegated, the achievement of the objectives in subsection (1)(d) to (g) of this section.

(4) The department shall report annually to committees of the Legislative Assembly related to the provision of court appointed special advocate services regarding the disbursement of moneys in the Court Appointed Special Advocate Fund established under section 5 of this 2017 Act. The report must summarize the extent to which the statewide outcome or performance measures identified by the department under section 3 of this 2017 Act are being met and include an analysis of the effectiveness of court appointed special advocate services provided in this state.

SECTION 4. Each CASA Volunteer Program shall report biannually to committees of the Legislative Assembly related to the provision of court appointed special advocate services. The statewide coordinating entity contracted with by the Oregon Department of Administrative Services under section 3 of this 2017 Act may present the biannual reports required under this section on behalf of the CASA Volunteer Programs in this state. The report must

include each program's status with respect to the statewide outcome or performance measures identified by the department under section 3 of this 2017 Act.

SECTION 5. (1) The Court Appointed Special Advocate Fund is established within the State Treasury, separate and distinct from the General Fund. Interest earned by the Court Appointed Special Advocate Fund shall be credited to the fund.

(2) Moneys in the fund shall consist of:

(a) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(b) Amounts received from state, federal and private sources;

(c) Amounts donated to the fund; and

(d) Other amounts deposited in the fund from any source.

(3) Moneys in the fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of carrying out the provisions of ORS 419B.112 and section 3 of this 2017 Act.

(4) The department may use moneys in the fund to pay the department's administrative costs associated with the fund and with carrying out the provisions of ORS 419B.112 and section 3 of this 2017 Act.

SECTION 5a. The Oregon Department of Administrative Services shall submit the first report required under section 3 of this 2017 Act no later than September 1, 2018.

CONFORMING AMENDMENTS

SECTION 6. ORS 131A.360 is amended to read:

131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by ORS 131A.005 (12)(a).

(2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement, under ORS chapter 190, with the county in which the property was seized to provide a portion of the forfeiture proceeds to the county.

(3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection.

(4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning Division Fund established in ORS 326.435 for disbursement to relief nurseries as described in ORS 417.788.

(5) If the forfeiting agency has entered into an agreement with a county under subsection (2) of this section, after paying costs under subsection (3) of this section and making the deductions required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts required by the agreement.

(6) After making all payments and deductions required by subsections (3), (4) and (5) of this section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received by a county under subsection (5) of this section or by any other public body under an intergovernmental agreement entered into under ORS 131A.355, only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools;

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment;

(e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney;

(f) Drug treatment and programs that support drug treatment; and

(g) A CASA Volunteer Program as defined in [ORS 458.580] **section 2 of this 2017 Act**.

(7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(8) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (4) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 7. ORS 419A.255, as amended by section 11, chapter 417, Oregon Laws 2013, section 8, chapter 439, Oregon Laws 2013, section 3, chapter 71, Oregon Laws 2014, section 2, chapter 293, Oregon Laws 2015, and section 7, chapter 95, Oregon Laws 2016, is amended to read:

419A.255. (1)(a) The clerk of the court shall maintain a record of each case and a supplemental confidential file for each case, except as otherwise provided in ORS 7.120.

(b) The record of the case shall be withheld from public inspection but is open to inspection by the following:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) The child;

(C) The ward;

(D) The youth;

(E) The youth offender;

(F) The parent or guardian of the child, ward, youth or youth offender;

(G) The guardian ad litem for the parent;

(H) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in [ORS 458.580] **section 2 of this 2017 Act**, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(J) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (I) of this paragraph;

(K) The surrogate;

(L) Service providers in the case;

(M) The district attorney or assistant attorney general representing a party in the case;

(N) The juvenile department;

(O) The Department of Human Services;

(P) The Oregon Youth Authority; and

(Q) Any other person or entity allowed by the court pursuant to section 9, chapter 95, Oregon Laws 2016.

(c) The following are entitled to copies of the record of the case:
(A) The judge of the juvenile court and those acting under the judge's direction;
(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);
(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under ORS 419B.875 (2) or 419C.285 (2);

(D) Persons listed in paragraph (b)(J) to (P) of this subsection; and
(E) Any other person or entity allowed by the court pursuant to section 9, chapter 95, Oregon Laws 2016.

(2)(a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the record of the case or the supplemental confidential file are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection except that inspection is permitted as set forth in subsection (1)(b) of this section and paragraph (b) of this subsection. The offer or admission of reports and other material in the record of the case or the supplemental confidential file as exhibits in a hearing or trial does not waive or otherwise change the privileged status of the reports and other material, except for purposes of the hearing or trial in which the reports and other material are offered or admitted. Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth offender's history and prognosis that were maintained in the supplemental confidential file become part of the record of the case but are subject to paragraph (e) of this subsection.

(b) A supplemental confidential file is open to inspection by the following:
(A) The judge of the juvenile court and those acting under the judge's direction;
(B) The parent or guardian of the child or ward in a dependency case;
(C) The guardian ad litem for the parent of a child or ward in a dependency case;
(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;
(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;
(F) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(G) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in [ORS 458.580] **section 2 of this 2017 Act**, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(H) The surrogate;
(I) Service providers in the case;
(J) The attorneys or prospective appellate attorneys for:
(i) The child;
(ii) The ward;
(iii) The youth;
(iv) The youth offender;
(v) The parent or guardian of the child, ward, youth or youth offender;
(vi) The guardian ad litem for the parent;
(vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency case; or

(viii) The court appointed special advocate and a representative of a CASA Volunteer Program as defined in [ORS 458.580] **section 2 of this 2017 Act**;

(K) The district attorney or assistant attorney general representing a party in the case;
(L) The juvenile department;
(M) The Department of Human Services;
(N) The Oregon Youth Authority; and
(O) Any other person or entity allowed by the court pursuant to section 9, chapter 95, Oregon Laws 2016.

(c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee.

(d) The following are entitled to copies of material maintained in the supplemental confidential file:

- (A) The judge of the juvenile court and those acting under the judge's direction;
- (B) Service providers in the case;
- (C) School superintendents and their designees in cases under ORS 419C.005;
- (D) Attorneys designated under subsection (2)(b)(J) of this section;
- (E) The district attorney or assistant attorney general representing a party in the case;
- (F) The juvenile department;
- (G) The Department of Human Services;
- (H) The Oregon Youth Authority;

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in [ORS 458.580] **section 2 of this 2017 Act**, when reasonably necessary for the appointment or supervision of court appointed special advocates; and

(J) Any other person or entity allowed by the court pursuant to section 9, chapter 95, Oregon Laws 2016.

(e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.

(3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in subsections (1)(b) and (2)(b) of this section, respectively, without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

(a) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.

(b) In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from the juvenile court.

(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or obtains copies of reports, materials or documents under this subsection or under subsection (1) or (2) of this section, the person may not use or disclose the reports, materials or documents, except:

(A) As provided in this subsection or under subsection (1) or (2) of this section;

(B) In the juvenile court proceeding for which the reports, materials or documents were sought or disclosed;

(C) With the consent of the court; or

(D) As provided in ORS 419A.253.

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or youth offender.

(b) A person that discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under this subsection does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

(a) The name and date of birth of the youth or youth offender;

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

(c) The date, time and place of any juvenile court proceeding in which the youth or youth offender is involved;

(d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

(f) The names and addresses of the youth or youth offender's parents or guardians; and

(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

(a) The youth's name and age and whether the youth is employed or in school;

(b) The youth offense for which the youth was taken into custody;

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

(d) The identity of the investigating and arresting agency; and

(e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(8) Except as provided in ORS 419A.300 and unless otherwise directed by the court, only the juvenile court, the county juvenile department and the Oregon Youth Authority may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure. The youth authority may disclose only information relating to youth offenders committed to the youth authority by order of the juvenile court if the information is subject to disclosure under subsection (6) or (7) of this section.

(9) Nothing in this section limits access to any juvenile court records by an appellate court reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for appellate court access to juvenile records.

(10) Nothing in this section prohibits the court from providing to the administrator as defined in ORS 25.010 the date of entry of a judgment terminating parental rights or the date of entry of a judgment terminating wardship following entry of a judgment of adoption together with the names and dates of birth of the parents and children subject to the judgment.

(11) In addition to any other provision in this section, the Judicial Department may permit county or statewide access to juvenile court records or information by county juvenile departments, the Department of Human Services, the Oregon Youth Authority, district attorney offices, the office

of the Attorney General, the office of public defense services, prospective appellate attorneys or public defense providers subject to the following restrictions:

(a) A prospective appellate attorney or public defense provider granted access under this subsection must agree, pursuant to a written agreement with the Judicial Department, to access:

(A) Party information only for purposes of conflicts screening procedures; and

(B) Other records or information about a client only as reasonably necessary for the representation of that client in any juvenile case in which the client is a party, subject to applicable state and federal confidentiality laws.

(b) Any other person or entity granted access under this subsection must agree, pursuant to a written agreement with the department, to access records or information only as authorized and allowed by this section, subject to applicable state and federal confidentiality laws.

(c) The State Court Administrator shall prescribe standards and procedures to implement the provisions of this subsection.

(d) Any person or entity granted access to juvenile court records or information under this subsection must preserve the confidentiality of that information as required under this section.

(12) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within the jurisdiction of the court, or a motion requesting an implementation plan other than return of a ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country as provided under ORS 419B.851 (3).

(13) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a guardian.

(14) The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward.

(15) Nothing in this section prohibits the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or a presiding judge from permitting access to juvenile court records, including the record of the case and the supplemental confidential file in a juvenile court proceeding, or audio or video recordings of a juvenile court proceeding, by researchers or evaluators for the purposes of developing statistics and performing analyses or audits on the effectiveness, cost and other areas of public interest regarding juvenile court programs and activities in accordance with child welfare and juvenile justice state plans and programs related to Title IV-B and IV-E of the Social Security Act and to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq). The Chief Justice shall, by rule or order, establish standards and guidelines for the release of juvenile court information for research and evaluation purposes to ensure confidentiality consistent with state and federal law and to promote consistent statewide application of this subsection. Statistics and analyses released by researchers and evaluators under this subsection may not contain any information that identifies any individual person involved in a juvenile court proceeding.

(16) Subject to subsection (11) of this section, the office of public defense services shall be permitted access to juvenile court records for the purposes of performing the office's duties as set forth in ORS 151.219 to audit or investigate attorney appointment or representation of a party in a juvenile court proceeding in order to ensure adequate representation of parties in juvenile court proceedings consistent with the child welfare state plan related to Title IV-E of the Social Security Act.

(17) Subject to subsection (11) of this section, the Oregon State Bar shall be permitted access to juvenile court records maintained in the record of the case for the purpose of performing the bar's duties as set forth in ORS 9.005 to 9.757 to investigate attorney representation of a party in a juvenile court proceeding and in order to ensure adequate representation of parties in juvenile court proceedings consistent with the child welfare state plan related to Title IV-E of the Social Security Act.

(18)(a) A child, ward, youth or youth offender, or the parent or guardian of a child, ward, youth or youth offender who is a party to the juvenile court proceeding, who is entitled to inspect or copy the record of the case under subsection (1)(b) and (c) of this section maintains the right to inspect

or copy the record of the case after jurisdiction of the court over the child, ward, youth or youth offender terminates and after the child, ward, youth or youth offender has reached the age of majority.

(b) Notwithstanding ORS 419B.524, a parent of a child, ward, youth or youth offender whose parental rights have been terminated maintains the right that existed under subsection (1)(b) and (c) of this section to inspect or copy the record of the case as the record of the case existed up until the time of entry of the judgment terminating the parent's parental rights and may obtain a copy of the judgment terminating the parent's parental rights.

(19) When inspection or copying of the record of the case or of the supplemental confidential file is allowed pursuant to this section, and unless otherwise required by law, the court that maintains the record of the case or the supplemental confidential file is not required to redact the names of, or information about, siblings or other persons contained in the record of the case or the supplemental confidential file.

SECTION 8. ORS 419A.004, as amended by section 46, chapter 106, Oregon Laws 2016, is amended to read:

419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires otherwise:

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

(2) "Another planned permanent living arrangement" means an out-of-home placement for a ward 16 years of age or older that is consistent with the case plan and in the best interests of the ward other than placement:

(a) By adoption;

(b) With a legal guardian; or

(c) With a fit and willing relative.

(3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon [*Volunteers Commission for Voluntary Action and Service under ORS 458.581*] **Department of Administrative Services under section 3 of this 2017 Act** to recruit, train and supervise volunteers to serve as court appointed special advocates.

(4) "Child care center" means a residential facility for wards or youth offenders that is licensed, certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

(5) "Community service" has the meaning given that term in ORS 137.126.

(6) "Conflict of interest" means a person appointed to a local citizen review board who has a personal or pecuniary interest in a case being reviewed by that board.

(7) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

(8) "Court" means the juvenile court.

(9) "Court appointed special advocate" means a person in a CASA Volunteer Program who is appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

(10) "Court facility" has the meaning given that term in ORS 166.360.

(11) "Current caretaker" means a foster parent who:

(a) Is currently caring for a ward who is in the legal custody of the Department of Human Services and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Who has cared for the ward, or at least one sibling of the ward, for at least the immediately prior 12 consecutive months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two years of age.

- (12) "Department" means the Department of Human Services.
- (13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.
- (14) "Director" means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.
- (15) "Guardian" means guardian of the person and not guardian of the estate.
- (16) "Indian child" means any unmarried person less than 18 years of age who is:
- (a) A member of an Indian tribe; or
 - (b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- (17) "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state.
- (18) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.
- (19) "Parent" means the biological or adoptive mother and the legal father of the child, ward, youth or youth offender. As used in this subsection, "legal father" means:
- (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and
 - (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under applicable tribal law.
- (20) "Permanent foster care" means an out-of-home placement in which there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.
- (21) "Public building" has the meaning given that term in ORS 166.360.
- (22) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child or ward while encouraging the emotional and developmental growth of the child or ward, that a substitute care provider shall use when determining whether to allow a child or ward in substitute care to participate in extracurricular, enrichment, cultural and social activities.
- (23) "Reasonable time" means a period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments.
- (24) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings or documents pertaining to a case.
- (25) "Resides" or "residence," when used in reference to the residence of a child, ward, youth or youth offender, means the place where the child, ward, youth or youth offender is actually living or the jurisdiction in which wardship or jurisdiction has been established.
- (26) "Restitution" has the meaning given that term in ORS 137.103.
- (27) "Serious physical injury" means:
- (a) A serious physical injury as defined in ORS 161.015; or
 - (b) A physical injury that:
 - (A) Has a permanent or protracted significant effect on a child's daily activities;
 - (B) Results in substantial and recurring pain; or
 - (C) In the case of a child under 10 years of age, is a broken bone.
- (28) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.
- (29) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for holding children, youths and youth offenders pending further placement.
- (30) "Sibling" means one of two or more children or wards related:
- (a) By blood or adoption through a common legal parent; or
 - (b) Through the marriage of the children's or wards' legal or biological parents.

(31) “Substitute care” means an out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home, child-caring agency as defined in ORS 418.205 or other child caring institution or facility. “Substitute care” does not include care in:

(a) A detention facility, forestry camp or youth correction facility;

(b) A family home that the court has approved as a ward’s permanent placement, when a child-caring agency as defined in ORS 418.205 has been appointed guardian of the ward and when the ward’s care is entirely privately financed; or

(c) In-home placement subject to conditions or limitations.

(32) “Surrogate” means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safeguards with respect to the provision of free appropriate public education.

(33) “Tribal court” means a court with jurisdiction over child custody proceedings and that is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe or any other administrative body of a tribe that is vested with authority over child custody proceedings.

(34) “Victim” means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor, “victim” includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be determined, the people of Oregon, as represented by the district attorney, are considered the victims.

(35) “Violent felony” means any offense that, if committed by an adult, would constitute a felony and:

(a) Involves actual or threatened serious physical injury to a victim; or

(b) Is a sexual offense. As used in this paragraph, “sexual offense” has the meaning given the term “sex crime” in ORS 163A.005.

(36) “Ward” means a person within the jurisdiction of the juvenile court under ORS 419B.100.

(37) “Young person” means a person who has been found responsible except for insanity under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

(38) “Youth” means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.

(39) “Youth care center” has the meaning given that term in ORS 420.855.

(40) “Youth offender” means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

SECTION 9. ORS 419B.112 is amended to read:

419B.112. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings and may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under [ORS 458.584] **section 5 of this 2017 Act**. Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the Public Defense Services Commission or from Judicial Department operating funds.

(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:

(a) Investigate all relevant information about the case;

(b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;

(c) Facilitate and negotiate to ensure that the court, the Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and

(d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of an order of the court.

(3) If a juvenile court does not have a sufficient number of qualified court appointed special advocates available to it, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.195.

(4) Any person appointed as a court appointed special advocate in any judicial proceeding on behalf of the child or ward is immune from any liability for defamation or statements made in good faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program director, CASA Volunteer Program employee or member of the board of directors or trustees of any CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment made in good faith in the course or scope of that person's duties or employment as part of a CASA Volunteer Program.

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, the court may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of court appointed special advocate services, including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under ORS 419A.255.

(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under P.L. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

SECTION 10. ORS 458.558 is amended to read:

458.558. (1) The members of the Oregon Volunteers Commission for Voluntary Action and Service must be citizens of this state who have a proven commitment to community service and who have a demonstrated interest in fostering and nurturing citizen involvement as a strategy for strengthening communities and promoting the ethic of service in all sectors of this state.

(2) The Governor shall appoint as members of the commission at least one of each of the following:

(a) An individual with experience in educational, training and development needs of youth, particularly disadvantaged youth.

(b) An individual with experience in promoting involvement of older adults in service and volunteerism.

(c) A representative of community-based agencies or organizations within this state.

(d) The Deputy Superintendent of Public Instruction or designee.

(e) A representative of local governments in this state.

(f) A representative of local labor unions in this state.

(g) A representative of business.

(h) A person at least 16, but not more than 25, years of age who is a participant or supervisor in a national service program.

(i) A representative of a national service program described in 42 U.S.C. 12572(a).

(3) In addition to appointing members under subsection (2) of this section, the Governor may appoint as members individuals from the following groups:

(a) Educators.

(b) Experts in the delivery of human, educational, environmental or public safety services to communities and individuals.

(c) Members of Native American tribes.

(d) At-risk youths who are out of school.

(e) Entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

[(f) A director or representative of a CASA Volunteer Program.]

[(g) A court appointed special advocate.]

(4) In making appointments of members described in subsections (2) and (3) of this section, the Governor shall ensure that:

(a) No more than 50 percent of the appointed members are from the same political party; and

(b) No more than 25 percent of the appointed members are state employees.

SECTION 11. ORS 458.568 is amended to read:

458.568. The Oregon Volunteers Commission for Voluntary Action and Service shall:

(1) Develop programs and provide oversight and administration of programs granted to this state by the Corporation for National and Community Service under the National and Community Service Trust Act of 1993, as amended, (P.L. 103-82).

(2) Prepare state applications to the Corporation for National and Community Service for financial assistance for state-based service programs.

(3) Develop a statewide plan that is designed to meet or exceed the Oregon benchmark on volunteerism.

(4) Develop projects, training methods, curriculum materials and other materials and activities related to state service programs that receive assistance directly from the Corporation for National and Community Service.

(5) To engage citizens in service and to strengthen communities, create statewide access for all Oregon citizens to a variety of volunteer opportunities by:

(a) Evaluating the status of volunteerism in the public, private and nonprofit sectors of this state;

(b) Examining methods to strengthen the capacity of volunteer organizations to support citizen involvement; and

(c) Educating all citizens about the importance of citizen involvement and voluntary action.

(6) Encourage youth and young adults to engage in their communities through voluntary action by:

(a) Assisting efforts to inform young Oregonians about opportunities for involvement in the public, private and nonprofit sectors;

(b) Promoting the value of service learning as an educational strategy in the kindergarten through higher educational systems; and

(c) Collaborating with groups to advocate for youth voice in the public, private and nonprofit governing structures.

(7) Promote recognition of volunteerism and service into the daily operation of public, private and nonprofit sectors throughout the state by:

(a) Promoting a statewide volunteer recognition plan open to all sectors; and

(b) Assisting efforts by Oregon communities to encourage citizen involvement in volunteerism.

[(8) Implement the provisions of ORS 419B.112 and 458.581.]

[(9)] (8) Biennially submit a report to the Governor and the Legislative Assembly as provided under ORS 192.230 to 192.245:

- (a) Detailing commission activities during the preceding two-year period;
- (b) Reviewing and summarizing, to the extent the commission deems relevant, the content of reports accepted by the commission on behalf of the Governor;
- (c) Assessing the state of volunteerism in Oregon; and
- (d) Containing specific recommendations for any additional legislation the commission deems necessary to carry out the purpose of the Oregon Volunteer and Community Service Act or to improve the effectiveness or efficiency of the commission.

**TRANSFER OF AUTHORITY FROM
OREGON VOLUNTEERS COMMISSION
FOR VOLUNTARY ACTION AND SERVICE
TO OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES**

SECTION 12. All the duties, functions and powers of the Oregon Volunteers Commission for Voluntary Action and Service relating to the creation, supervision and operation of CASA Volunteer Programs under ORS 458.581 as that statute was in effect before the effective date of this 2017 Act, are imposed upon, transferred to and vested in the Oregon Department of Administrative Services.

RECORDS AND PROPERTY

SECTION 13. The director of the Oregon Volunteers Commission for Voluntary Action and Service shall deliver to the Director of the Oregon Department of Administrative Services all records and property within the jurisdiction of the director of the Oregon Volunteers Commission for Voluntary Action and Service that relate to the duties, functions and powers transferred by section 12 of this 2017 Act, and the Director of the Oregon Department of Administrative Services shall take possession of the records and property transferred under this section.

UNEXPENDED REVENUES

SECTION 14. (1) The unexpended balances of amounts authorized to be expended by the Oregon Volunteers Commission for Voluntary Action and Service for the biennium beginning July 1, 2017, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 12 of this 2017 Act are transferred to and are available for expenditure by the Oregon Department of Administrative Services for the biennium beginning July 1, 2017, for the purpose of administering and enforcing the duties, functions and powers transferred by section 12 of this 2017 Act and under section 3 of this 2017 Act.

(2) Any balance in the Court Appointed Special Advocate Fund established under ORS 458.584 as that statute was in effect before the effective date of this 2017 Act that exists in the fund on the effective date of this 2017 Act is transferred to the Court Appointed Special Advocate Fund established under section 5 of this 2017 Act.

(3) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Oregon Volunteers Commission for Voluntary Action and Service remain applicable to expenditures by the Oregon Department of Administrative Services under this section.

ACTIONS, PROCEEDINGS, PROSECUTIONS

SECTION 15. The transfer of duties, functions and powers to the Oregon Department of Administrative Services by section 12 of this 2017 Act does not affect any action, proceeding

or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Department of Administrative Services is substituted for the Oregon Volunteers Commission for Voluntary Action and Service in the action, proceeding or prosecution.

LIABILITIES, DUTIES, OBLIGATIONS

SECTION 16. (1) Nothing in sections 12 to 18 of this 2017 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 12 of this 2017 Act. The Oregon Department of Administrative Services may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Oregon Volunteers Commission for Voluntary Action and Service legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2017 Act and accruing under or with respect to the duties, functions and powers transferred by section 12 of this 2017 Act are transferred to the Oregon Department of Administrative Services. For the purpose of succession to these rights and obligations, the Oregon Department of Administrative Services is a continuation of the Oregon Volunteers Commission for Voluntary Action and Service and not a new authority.

RULES

SECTION 17. Notwithstanding the transfer of duties, functions and powers by section 12 of this 2017 Act, the rules of the Oregon Volunteers Commission for Voluntary Action and Service with respect to such duties, functions or powers that are in effect on the effective date of this 2017 Act continue in effect until superseded or repealed by rules of the Oregon Department of Administrative Services. References in such rules of the Oregon Volunteers Commission for Voluntary Action and Service to the Oregon Volunteers Commission for Voluntary Action and Service or an officer or employee of the Oregon Volunteers Commission for Voluntary Action and Service are considered to be references to the Oregon Department of Administrative Services or an officer or employee of the Oregon Department of Administrative Services.

SECTION 18. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 12 of this 2017 Act, reference is made to the Oregon Volunteers Commission for Voluntary Action and Service or an officer or employee of the Oregon Volunteers Commission for Voluntary Action and Service whose duties, functions or powers are transferred by section 12 of this 2017 Act, the reference is considered to be a reference to the Oregon Department of Administrative Services or an officer or employee of the Oregon Department of Administrative Services who by this 2017 Act is charged with carrying out such duties, functions and powers.

FINANCIAL PROVISIONS

SECTION 18a. (1) Notwithstanding any other provision of law, the General Fund appropriation made to the Housing and Community Services Department by section 1, chapter ____, Oregon Laws 2017 (Enrolled House Bill 5012), for the biennium beginning July 1, 2017, is decreased by \$2,501,299 for the purpose of the transfer of duties, functions and powers to the Oregon Department of Administrative Services by section 12 of this 2017 Act.

(2) Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2, chapter ____, Oregon Laws 2017 (Enrolled House Bill 5012), for the biennium beginning July 1, 2017, as the maximum limit for payment of expenses for oper-

ations, from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds from the United States Department of Housing and Urban Development for contract services, but excluding lottery funds and federal funds not described in this section, collected or received by the Housing and Community Services Department, is decreased by \$2,231,252.

SECTION 18b. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2017, out of the General Fund, the amount of \$2,501,299, which may be expended for the purpose of administering and enforcing the duties, functions and powers transferred by section 12 of this 2017 Act.

(2) Notwithstanding any other law limiting expenditures, the amount of \$2,231,252 is established for the biennium beginning July 1, 2017, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Department of Administrative Services for special payments for CASA Volunteer Programs.

CAPTIONS

SECTION 19. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

EMERGENCY CLAUSE

SECTION 20. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on July 1, 2017.

Passed by House July 5, 2017

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Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate July 7, 2017

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State